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**By: Chairman, Economic Matters Committee (Departmental - Dept. Business & Economic Dev.)**

Introduced and read first time: February 19, 1996

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Business Financing Fund**

3 FOR the purpose of creating the Maryland Business Financing Fund; repealing the  
4 Maryland Industrial Land Act; repealing the Industrial and Commercial  
5 Redevelopment Fund; requiring certain moneys to be included in the Maryland  
6 Business Financing Fund; providing for uses of the Fund; authorizing the Secretary  
7 of Business and Economic Development to approve certain financial assistance  
8 from the Fund under certain circumstances; authorizing the Secretary to enter into  
9 certain loan agreements under certain circumstances; requiring that loan  
10 agreements include certain provisions; authorizing a higher limit on financial  
11 assistance for certain projects located in an Enterprise Zone; authorizing the  
12 delegation of certain functions by a subdivision under certain circumstances;  
13 providing for the repayment of certain financial assistance; authorizing subdivisions  
14 to issue general obligation bonds or otherwise borrow money or guaranty a loan of  
15 a certain amount for certain purposes; declaring legislative intent; defining certain  
16 terms; providing for a delayed effective date for certain provisions of this Act;  
17 authorizing the Secretary to modify the terms of financial assistance granted under  
18 the Maryland Industrial Land Act and the Maryland Industrial and Commercial  
19 Redevelopment Fund; and generally relating to the creation of the Maryland  
20 Business Financing Fund and the repeal of the Maryland Industrial Land Act and  
21 the Industrial and Commercial Redevelopment Fund.

22 BY adding to

23 Article 83A - Department of Business and Economic Development  
24 Section 5-1101 through 5-1108, inclusive, to be under the new subtitle "Subtitle 11.  
25 Maryland Business Financing Act"  
26 Annotated Code of Maryland  
27 (1995 Replacement Volume)

28 BY repealing

29 Article 83A - Department of Business and Economic Development  
30 Section 5-701 through 5-715, inclusive, and the subtitle "Subtitle 7. Maryland  
31 Industrial Land Act"; and 5-801 through 5-807, inclusive, and the subtitle  
32 "Subtitle 8. Industrial and Commercial Redevelopment"  
33 Annotated Code of Maryland

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1 (1995 Replacement Volume)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article 83A - Department of Business and Economic Development**

5 SUBTITLE 11. MARYLAND BUSINESS FINANCING ACT.

6 5-1101.

7 THIS SUBTITLE MAY BE CITED AS THE "MARYLAND BUSINESS FINANCING ACT".

8 5-1102.

9 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

10 (1) THERE HAS BEEN INCREASING EVIDENCE OF A SHORTAGE OF  
11 CAPITAL NECESSARY FOR THE DEVELOPMENT AND GROWTH OF INDUSTRY AND  
12 COMMERCE IN THE STATE THAT WILL RESULT IN INCREASED OPPORTUNITIES FOR  
13 GAINFUL EMPLOYMENT BY THE PEOPLE OF MARYLAND.

14 (2) A COOPERATIVE PROGRAM BETWEEN THE STATE AND ITS  
15 POLITICAL SUBDIVISIONS AS SET FORTH IN THIS SUBTITLE IS THE MOST EFFECTIVE  
16 WAY TO ENSURE THE AVAILABILITY OF ADEQUATE CAPITAL FOR BUSINESS  
17 FINANCING IN THE STATE.

18 5-1103.

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
20 INDICATED.

21 (B) "COUNTY" INCLUDES THE CITY OF BALTIMORE.

22 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF BUSINESS AND ECONOMIC  
23 DEVELOPMENT.

24 (D) "FINANCIAL ASSISTANCE" MEANS LOANS, GRANTS, EQUITY  
25 INVESTMENTS, AND ANY COMBINATION THEREOF.

26 (E) "FUND" MEANS THE MARYLAND BUSINESS FINANCING FUND.

27 (F) "POLITICAL SUBDIVISION" MEANS:

28 (1) A COUNTY; OR

29 (2) A MUNICIPAL CORPORATION SUBJECT TO THE PROVISIONS OF  
30 ARTICLE XI-E OF THE MARYLAND CONSTITUTION.

31 (G) "PROJECT COSTS" MEANS THE COSTS OF AN INDUSTRIAL, COMMERCIAL,  
32 OR NONPROFIT DEVELOPMENT PROJECT AND MAY INCLUDE PLANNING AND  
33 ENGINEERING STUDIES OR OTHER PROFESSIONAL SERVICES, ACQUISITION OF ANY  
34 INTEREST IN REAL OR PERSONAL PROPERTY, SITE PREPARATION, INSTALLATION OF  
35 MACHINERY OR EQUIPMENT, WORKING CAPITAL, CONSTRUCTION AND

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1 REHABILITATION COSTS, AND ANY OTHER COSTS OF MAKING THE PROJECT  
2 OPERABLE.

3 (H) "SECRETARY" MEANS THE SECRETARY OF BUSINESS AND ECONOMIC  
4 DEVELOPMENT.

5 5-1104.

6 (A) (1) THERE IS A MARYLAND BUSINESS FINANCING FUND WITHIN THE  
7 DEPARTMENT.

8 (2) THE FUND IS A NONLAPSING, REVOLVING SPECIAL FUND MANAGED  
9 BY THE SECRETARY.

10 (B) THE FUND SHALL CONSIST OF:

11 (1) MONEYS APPROPRIATED BY THE STATE TO THE FUND;

12 (2) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE  
13 FROM THE FUND;

14 (3) RETURN ON EQUITY INVESTMENTS;

15 (4) PROCEEDS FROM THE DISPOSITION OF ANY SECURITY RELATED TO  
16 ANY LOAN MADE UNDER THIS SUBTITLE;

17 (5) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE  
18 FROM THE INDUSTRIAL LAND FUND AND THE INDUSTRIAL AND COMMERCIAL  
19 REDEVELOPMENT FUND;

20 (6) PROCEEDS FROM THE DISPOSITION OF ANY SECURITY RELATED TO  
21 ANY LOAN MADE FROM THE INDUSTRIAL LAND FUND AND THE INDUSTRIAL AND  
22 COMMERCIAL REDEVELOPMENT FUND;

23 (7) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES  
24 FROM MONEYS IN THE FUND; AND

25 (8) ANY OTHER MONEYS MADE AVAILABLE TO THE DEPARTMENT.

26 (C) THE MONEYS IN THE FUND FROM TIME TO TIME MAY BE EXPENDED:

27 (1) FOR FINANCIAL ASSISTANCE APPROVED UNDER THIS SUBTITLE;  
28 AND

29 (2) TO PAY ANY AND ALL EXPENSES IN CONNECTION WITH THE  
30 ADMINISTRATION OF THIS SUBTITLE INCLUDING, BY WAY OF EXAMPLE, EXPENSES  
31 FOR ADMINISTRATION, LEGAL, ACTUARIAL, MARKETING, AND OTHER SERVICES.

32 (D) (1) THE STATE TREASURER SHALL HOLD AND THE STATE  
33 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

34 (2) ALL INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE  
35 FUND.

1 5-1105.

2 (A) ANY POLITICAL SUBDIVISION OF THE STATE OR OTHER ENTITY DESIRING  
3 FUNDING FOR AN INDUSTRIAL, COMMERCIAL, OR NONPROFIT DEVELOPMENT  
4 PROJECT UNDER THIS SUBTITLE SHALL APPLY FOR EACH PROJECT TO THE  
5 SECRETARY. THE APPLICATION SHALL DESCRIBE THE PROJECT IN THE MANNER  
6 AND DETAIL AS THE SECRETARY MAY, BY REGULATION, DETERMINE.

7 (B) THE SECRETARY, UPON RECEIPT OF AN APPLICATION AND AFTER ANY  
8 INVESTIGATION THE SECRETARY DEEMS ADVISABLE, MAY APPROVE FINANCIAL  
9 ASSISTANCE TO A POLITICAL SUBDIVISION OR OTHER ENTITY FOR A PROJECT.

10 (C) THE SECRETARY MAY APPROVE FINANCIAL ASSISTANCE OF UP TO 100%  
11 OF THE TOTAL PROJECT COSTS.

12 (D) THE TOTAL FINANCIAL ASSISTANCE PROVIDED UNDER THIS SUBTITLE  
13 FOR ANY ONE PROJECT LOCATED IN AN ENTERPRIZE ZONE DESIGNATED UNDER §  
14 5-402 OF THIS ARTICLE MAY NOT EXCEED \$4,500,000.

15 (E) THE TOTAL FINANCIAL ASSISTANCE PROVIDED UNDER THIS SUBTITLE  
16 FOR ANY ONE PROJECT LOCATED OUTSIDE AN ENTERPRIZE ZONE MAY NOT  
17 EXCEED \$4,000,000.

18 (F) IN JUDGING WHETHER OR NOT TO APPROVE FINANCIAL ASSISTANCE AND  
19 THE AMOUNT OF THE FINANCIAL ASSISTANCE, THE SECRETARY SHALL CONSIDER  
20 AND DETERMINE:

21 (1) WHETHER THE PROJECT MAY REASONABLY BE EXPECTED TO  
22 CREATE NEW EMPLOYMENT OPPORTUNITIES AND THE TYPES AND QUALITY OF  
23 JOBS TO BE CREATED;

24 (2) THE AMOUNT OF BENEFIT, IN TERMS OF ECONOMIC DEVELOPMENT  
25 AND EMPLOYMENT OPPORTUNITIES, THAT THE PROJECT MAY REASONABLY BE  
26 EXPECTED TO GENERATE:

27 (I) WHEN COMPARED WITH THE BENEFITS THAT OTHER  
28 PROJECTS UNDER CONSIDERATION MAY REASONABLY BE EXPECTED TO  
29 GENERATE; AND

30 (II) IN RELATION TO THE TOTAL FUNDS AVAILABLE FOR  
31 FINANCIAL ASSISTANCE;

32 (3) WHETHER THE PROJECT, AS PLANNED, WILL COMPLY WITH ALL  
33 LAWS AND REGULATIONS APPLICABLE TO THE PROJECT;

34 (4) THE AMOUNT OF OTHER FUNDS WHICH ARE AVAILABLE OR ARE  
35 LIKELY TO BECOME AVAILABLE FOR THE PROJECT;

36 (5) THE EXTENT OF UNEMPLOYMENT AND UNDEREMPLOYMENT IN THE  
37 PROJECT AREA AND THE DEGREE TO WHICH THE PROJECT WILL IMPROVE  
38 EMPLOYMENT PROSPECTS;

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1 (6) THE DEGREE TO WHICH THE PROJECT WILL ADVANCE THE  
2 ECONOMIC DEVELOPMENT STRATEGIES AND OBJECTIVES OF THE STATE AND  
3 POLITICAL SUBDIVISION;

4 (7) THE GEOGRAPHIC DISTRIBUTION OF PROJECTS RECEIVING  
5 FINANCIAL ASSISTANCE;

6 (8) THE DEGREE TO WHICH THE AFFECTED POLITICAL SUBDIVISION  
7 HAS DEMONSTRATED ITS COMMITMENT TO THE PROJECT;

8 (9) THE VALUE OF THE COLLATERAL OFFERED TO SECURE A LOAN;

9 (10) THE FINANCIAL CAPACITY OF THE BORROWER TO REPAY THE  
10 FINANCIAL ASSISTANCE; AND

11 (11) SUCH OTHER FACTORS AS THE SECRETARY DEEMS RELEVANT.

12 (G) (1) UPON APPROVAL OF A LOAN, THE DEPARTMENT SHALL ENTER INTO  
13 LOAN DOCUMENTS WITH THE POLITICAL SUBDIVISION OR OTHER ENTITY  
14 RECEIVING THE FINANCIAL ASSISTANCE.

15 (2) THE LOAN DOCUMENTS SHALL INCLUDE:

16 (I) AN INTEREST RATE THAT THE SECRETARY APPROVES;

17 (II) A TERM LASTING NOT MORE THAN THE FOLLOWING PERIOD,  
18 UNLESS THE SECRETARY DETERMINES THERE IS GOOD CAUSE TO EXTEND THESE  
19 PERIODS:

20 1. 25 YEARS, IF THE LOAN PROCEEDS ARE USED PRIMARILY  
21 TO ACQUIRE AN INTEREST IN OR IMPROVE REAL PROPERTY;

22 2. 10 YEARS, IF THE LOAN PROCEEDS ARE USED PRIMARILY  
23 TO ACQUIRE AN INTEREST IN OR IMPROVE MACHINERY OR EQUIPMENT OR OTHER  
24 PERSONAL PROPERTY; OR

25 3. 5 YEARS, IF THE LOAN PROCEEDS ARE USED PRIMARILY  
26 FOR WORKING CAPITAL;

27 (III) A PROVISION THAT PERMITS THE SECRETARY TO REQUIRE,  
28 UPON THE SALE OF ANY PORTION OF THE PROPERTY ACQUIRED PRIMARILY WITH  
29 LOAN PROCEEDS, PREPAYMENT OF ALL OR A SPECIFIED PROPORTION OF THE  
30 PRINCIPAL OF THE LOAN FROM THE SALE PROCEEDS; AND

31 (IV) ANY OTHER TERMS AND CONDITIONS APPROVED BY THE  
32 SECRETARY.

33 (3) IF THE BORROWER IS NOT A POLITICAL SUBDIVISION, THE  
34 SECRETARY MAY REQUIRE A POLITICAL SUBDIVISION TO DO ONE OR MORE OF THE  
35 FOLLOWING:

36 (I) GUARANTY REPAYMENT OF ALL OR A PORTION OF THE  
37 AMOUNT OF THE LOAN;

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1 (II) PROVIDE OTHER FINANCING FOR THE PROJECT; OR

2 (III) MAKE ANOTHER ACCEPTABLE CONTRIBUTION TO THE  
3 PROJECT.

4 (4) THE SECRETARY MAY REQUIRE A BORROWER TO PROVIDE  
5 WHATEVER SECURITY THE DEPARTMENT DEEMS APPROPRIATE TO ASSURE  
6 REPAYMENT OF THE LOAN.

7 (5) THE SECRETARY MAY SET CONDITIONS UNDER WHICH REPAYMENT  
8 OF ALL OR A PORTION OF A LOAN WILL BE FORGIVEN.

9 (H) UPON APPROVAL OF A GRANT, THE DEPARTMENT SHALL ENTER INTO A  
10 GRANT AGREEMENT WITH THE GRANTEE ON TERMS AND CONDITIONS ACCEPTABLE  
11 TO THE SECRETARY.

12 (I) UPON APPROVAL OF AN EQUITY INVESTMENT, THE DEPARTMENT SHALL  
13 ENTER INTO AN INVESTMENT AGREEMENT WITH THE ENTITY ON TERMS AND  
14 CONDITIONS ACCEPTABLE TO THE SECRETARY.

15 5-1106.

16 (A) A POLITICAL SUBDIVISION MAY DELEGATE THE PLANNING AND  
17 CARRYING OUT OF A PROJECT UNDER § 5-1105 OF THIS SUBTITLE TO THE POLITICAL  
18 SUBDIVISION'S ECONOMIC DEVELOPMENT AGENCY, OR IN THE CASE OF A COUNTY,  
19 TO A MUNICIPAL CORPORATION LOCATED IN THE COUNTY.

20 (B) THE DELEGATION ALLOWED UNDER SUBSECTION (A) OF THIS SECTION  
21 DOES NOT RELIEVE THE POLITICAL SUBDIVISION OF ANY OBLIGATION INCURRED  
22 UNDER ANY LOAN, GRANT, INVESTMENT, OR OTHER AGREEMENT EXECUTED  
23 UNDER THIS SUBTITLE.

24 5-1107.

25 (A) A LOAN TO OR GUARANTY BY A POLITICAL SUBDIVISION UNDER THIS  
26 SUBTITLE IS A GENERAL OBLIGATION OF THE BORROWING POLITICAL SUBDIVISION,  
27 TO THE REPAYMENT OF WHICH THE POLITICAL SUBDIVISION'S FULL FAITH AND  
28 CREDIT ARE PLEDGED OR AN OBLIGATION OF BALTIMORE CITY REPAYABLE FROM  
29 REVENUES OF THE PROJECT.

30 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A LOAN TO OR  
31 GUARANTY FROM A POLITICAL SUBDIVISION UNDER THIS SUBTITLE MAY BE  
32 UNDERTAKEN OR ENTERED INTO BY THE POLITICAL SUBDIVISIONS PURSUANT TO  
33 THIS SUBTITLE WITHOUT REGARD TO ANY LIMITATIONS OR PROCEDURES SET  
34 FORTH IN THE POLITICAL SUBDIVISION'S CHARTER OR OTHER APPLICABLE PUBLIC  
35 LOCAL OR PUBLIC GENERAL LAW THAT WOULD OTHERWISE APPLY.

36 5-1108.

37 EACH POLITICAL SUBDIVISION MAY ISSUE GENERAL OBLIGATION BONDS OR  
38 OTHERWISE BORROW MONEY OR GUARANTY A LOAN IN AN AMOUNT NOT  
39 EXCEEDING 0.5% OF THE TOTAL ASSESSED VALUE OF PROPERTY LOCATED WITHIN  
40 THE POLITICAL SUBDIVISION SUBJECT TO TAXATION AT THE FULL TAX RATE OF

7  
1 THE POLITICAL SUBDIVISION IN ORDER TO OBTAIN FUNDS TO FINANCE ITS SHARE  
2 OF PROJECT COSTS FOR PROJECTS IN WHICH THE STATE PARTICIPATES UNDER THIS  
3 SUBTITLE.

4 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5-701  
5 through 5-715, inclusive, and the subtitle "Subtitle 7. Maryland Industrial Land Act"; and  
6 5-801 through 5-807, inclusive, and the subtitle "Subtitle 8. Industrial and Commercial  
7 Redevelopment" of Article 83A - Department of Business and Economic Development  
8 of the Annotated Code of Maryland be repealed.

9 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any  
10 provision of Subtitle 7 or Subtitle 8 of Article 83A of the Code, the Secretary of Business  
11 and Economic Development, without any other approval, may modify the terms of any  
12 financial assistance provided under those subtitles, including the rate of interest, the time  
13 or amount of payment, forgiveness of principal and interest, or any other term.

14 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this  
15 Act shall take effect July 1, 1996.

16 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act  
17 shall take effect July 1, 1997.